

February 4, 1953  
Opinion No. 53-23

TO: Mr. Myron R. Holbert  
Assistant Superintendent  
Department of Public Instruction

RE: Out of-State travel by superintendents  
or principals in attending school conventions

QUESTION: Whether District school superintendents  
or principals may be reimbursed for out  
of-State travel incurred in the attendance  
at a school convention.

In attempting to answer the above query we must first assume that the Arizona Code sections as to the proper budgeting of such travel expense contained in Sections 54-603 and 54-301 have been followed, for without such compliance consideration of this problem would be a moot question.

In light of the above consideration, the germane issue may be broken down as follows: (a) Whether the attendance of conventions is properly termed "school business"; (b) Whether A.C.A. 1939, Section 54-416, para. 3 constitutes statutory authority for the payment of claims for out-of-State travel arising out of the attendance at school conventions.

The general issue of whether attendance at conventions constitutes school business was discussed at length in SMITH vs. HOLVTCHINER, PRESIDENT OF THE BOARD OF EDUCATION, 162 N.W. 630 and annotated in LRA 1917E 331. The issue at bar in that case was whether a County School Superintendent could be reimbursed for out-of-State travel to attend the 4th International Congress of School Hygiene. The Court concluded the issue in the following language:

"Cases challenging the right to expend the public funds for expenses of public officers in attending conventions have been before the courts, and the courts appear to have uniformly held that these are not within the scope of proper public expenditures. In the case in hand, the real object in attending the convention was educational. Strictly speaking, it had nothing directly to do with either the support of the schools, or the erection and furnishing of school buildings. Counsel for appellants believes that modern conditions require a more liberal rule. While it cannot be disputed that the municipality might derive great benefit from what its delegates might learn at the convention, yet experience

has shown that when the control of a fund and the use of it may be lodged in the same person, a situation arises which is subject to such flagrant abuses that courts have thought that this was an additional reason for that rule of strict construction made to protect the rights of taxpayers."

The annotation in LRA 1917E page 331 confirms the holding in the above case.

Similarly, C.J.S. page 1135, in a portion of paragraph 218e, states the following:

"\* \* \* Superintendents, principals, and supervisors are not entitled to be paid out of the district funds for their expenses while attending educational conventions, where their attendance is not required by statute; but, where under statutory authority employees are delegated by school directors to attend such conventions, they are entitled to be paid their expenses while so attending.  
\* \* \*"

The Supreme Court of Arizona has never had the question of school conventions before it, however in the case of WEBSTER vs. PARKS, 17 Ariz 383, a closely allied problem was raised, i.e., whether a County Surveyor could be reimbursed for attendance at the "Good Roads Convention" at Prescott, Arizona. The court recognized the general limitation discussed above in the following terms:

"\* \* \* We know of no provisions in our laws, and our attention has not been directed to any law, that authorizes the board of supervisors to pay the expenses of anyone in attending the Good Roads Convention.\* \* \*"

Thus, without specific statutory authorization, the courts have not considered attendance at conventions a proper item of public expenditure.

We come now to the second phase of this question, of whether Section 54-416, para. 3, A.C.A. 1939, could be considered specific statutory authority for such attendance. For clarification the paragraph in question is set out below:

"54-416. Power and duties of board of trustees.--  
\* \* \* 3. \* \* \* Boards of trustees of districts having an average daily attendance of three hundred (300) or more may employ a certificated superintendent or principal; two (2) or more districts having an average daily attendance of three hundred (300) or more may jointly employ a principal or superintendent whose salary shall be prorated among the districts employing him in accordance with

the number of children enrolled in each district, and reasonable travel expenses may be paid to such superintendent or principal when traveling on school business upon order of a majority of the board. \* \* \*

In an examination of Section 54-416 there appears to be a patent ambiguity. Is the travel authorized limited to that of a joint superintendent or principal or is it to be more broadly construed to include the travel of any principal hired by a district containing 300 or more pupils. Before discussing the scope of this section in regard to travel, let us first resolve this ambiguity. Where an ambiguity exists resort may be had to the punctuation in order to determine the legislative intent. *STATE vs. BAIRD*, 36 Ariz. 531, 288 Pac. 1. Thus, in the present instance, an examination of this section reveals that the portion of the sentence dealing with joint superintendents or principals is separated from the rest of the sentence by a semicolon, and that immediately following the phrase dealing with the employment of joint superintendents or principals and separated by a comma is the phrase concerning travel. A fair reading of this subsection then with the ordinary rules of punctuation in mind would lead one to construe such travel as limited to those superintendents or principals employed jointly by two or more districts.

Further support for the above interpretation is found by examining the exact meaning of the phrase " \* \* \* and reasonable travel expenses may be paid to such superintendent or principal \* \* \*" (emphasis supplied). In Volume 40 of the work entitled "Words and Phrases" on page 562, the word "such" is defined as follows: "'such,' as used in statutes, is a descriptive and relative word, and refers to the last antecedent, unless the meaning of the sentence would thereby be impaired." The following cases were cited as authority for this definition: *SUMNERMAN vs. KNOWLES*, 33 N.J.L. (4 Vroom) 202, *STINLAND vs. HOLSTAD*, 8 NW 881, 52 Wis. 259, and *PIPER vs. BOSTON & M.R.*, 74 A. 1041, 75 N.H. 435.

In application of this definition to our statute we find immediately preceding the phrase containing "such superintendent or principal" the following phrase:

" \* \* \* two (2) or more districts having an average daily attendance of three hundred (300) or more may jointly employ a principal or superintendent whose salary shall be prorated among the districts employing him in accordance with the number of children enrolled in each district, \* \* \*".

Thus the last antecedent which the phrase "such superintendent or principal" makes reference to is that superintendent or

principal jointly employed by two or more districts. It follows, therefore, that any travel performed must be confined to a joint principal or superintendent.

One further possible ambiguity which should be resolved is the meaning and effect of the requirement that any travel be "upon order of a majority of the board". In the instant situation this would mean a majority of the joint boards. Under A.C.A. 1939, Chap. 1, Sec., 1-103, subsection 3, the following rule of statutory construction is laid down:

"3. Words in the present tense, include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; \* \* \*"  
(Emphasis supplied)

The words "majority of the board" would thus include the plural "boards". The travel of a principal or superintendent employed by two or more school districts would thus require authorization of the majority of each of the boards in question.

With the above ambiguity resolved, we turn back to the basic issue as to whether Section 54-416 would constitute specific statutory authority for the payment of claims arising from out-of-State travel to attend school conventions. In the case of DODGE COUNTY vs. KAISER, 11 NW 2d, 348, the same issue was raised in regard to language in the Wisconsin statute quite similar to our own. The Wisconsin statute is quoted as follows:

"39.01 (3). The County Superintendent shall be allowed and shall receive (in addition to his salary) his reasonable actual and necessary expenses for travel, stationary, postage and printing incurred in or necessary for the proper discharge of the duties of the office." (Emphasis supplied)

Under the fact situation presented in the above case and under the above statute, the County School Superintendent attended the National Education Association Conference out of state which had been authorized by the County School Board. A further provision in the Wisconsin law specifically authorized attendance at local state school conventions when directed by the state school superintendent. The court concluded the issue in the following language:

"The conclusion is inescapable that had the legislature intended to allow reimbursement to the County Superintendent for expenses in attending other conventions than those called by the State Superintendent it would have done so by express language."

Assistant Superintendent  
Dept. of Public Instruction

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The close identity of the above fact situation to the one at hand, therefore, admits of no other construction of Section 54-416 than that it is statutory authority for jointly employed superintendents or principals to travel incident to this employment and that it does not constitute authority for out-of-State travel for the attendance of school conventions.

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